

Applicants respectfully maintain that the secondary restriction of a single formula of subgroups IA-VA is improper, as the compounds of each subgroup IA-VIA do not necessarily lead to "different reactivity, binding affinity, mechanism, stability, polarity, bioavailability, efficacy, solubility, and modes of action" as asserted on page 4 of the Restriction Requirement. In fact, Applicants note that the compounds of general formula (I) are nitroderivatives of drugs belonging to two specific therapeutic classes, which are non-steroidal anti-inflammatory drugs (NSAIDs) and diuretics. The NSAIDs class comprises radicals of subgroups IA to V Ac and VIA, and the diuretics class comprises structures of subgroups V Ad and V Ae. Further, among the NSAIDs class, the subgroups may be divided according to the therapeutic classification reported in THE MERCK INDEX 13th Ed. (attachment labeled as "Enclosure 1") into:

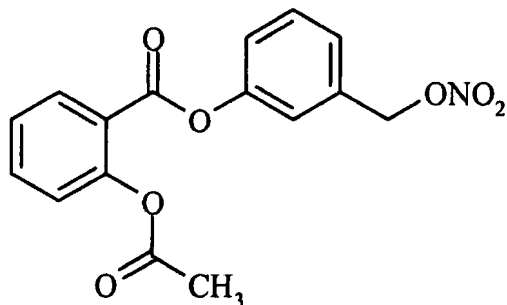
- arylpropionic acid derivatives which comprise "R" radicals of formulae: Group IIAa) formulae (II), (XXI), (IV), (VII), (XXXV), (VI), and (IX); Group IIAb) formulae (IIa), (XXX), and (XXXVI); and Group IIIA) formulae (II), (X), and (III);
- arylacetic acid derivatives which comprise "R" radicals of formulae: group IIAa) formulae (VIII) and (X); Group IIAb) formulae (XXXII), (XXXIII) and (XXXVII); and (IV);
- aminoarylcarboxylic acid derivatives which comprise "R" radicals of formulae: (V Aa1), (V Aa2), (V Aa3), (V Aa4), and (V Ab1);
- salicyclic acid derivatives which comprise "R" radicals of formulae: Group VIA) formula (Ia); and

- NSAIDs having a sulfonamide function which comprise "R" radicals of formulae: (V Ac1), (V Ac2), (V Ac3), (V Ac4), and (V Ac5).

Moreover, as demonstrated by pages 63-66 titled "Monographs on Drugs and Ancillary Substances: Analgesics Anti-inflammatory Drugs and Antipyretics" (submitted on February 13, 2007 as "Enclosure 2"), the class of NSAIDs are a known group of compounds that have analgesic, anti-inflammatory, and antipyretic properties. NSAIDs are the inhibitors of the enzyme cyclooxygenase and thus inhibit the biosynthesis of prostaglandins and thromboxanes from arachidonic acid. Further, this class of compounds generally has the same adverse effects, i.e., gastrointestinal disturbances, the same interactions with other drugs, and the same use and administration as reported pages 63-66 titled "Monographs on Drugs and Ancillary Substances: Analgesics Anti-inflammatory Drugs and Antipyretics" (submitted on February 13, 2007 as Enclosure 2). Therefore, although the NSAIDs have different chemical structures, they have the same mechanism and modes of action, comparable efficacy and similar side effects.

Accordingly, Applicants again respectfully request withdrawal of the secondary restriction requirement between of a single formula of subgroups IA-VIA, the formulae of subgroups I-VAc and the formulae of subgroup VIA are not unconnected in "design, operation, and effect" (emphasis added). MPEP §§ 802.01 and 806.06.

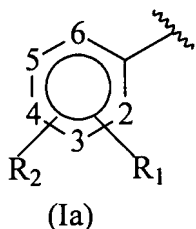
In response to the Election of Species Requirement, Applicants hereby maintain the provisional election of the 3-(nitroxymethyl)phenyl ester of aspirin of present claim 5 for prosecution on the merits with traverse, which has the following formula:



Applicants submit that the above-elected compound is within formula Ia of subgroup VIA of the formula A-X₁-NO₂ of claim 1, when:

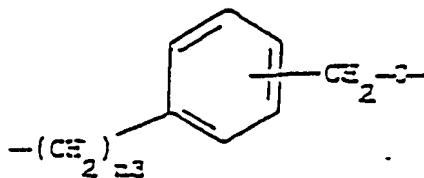
A = R(COX)_t with t=1 and X=O;

R is the formula (Ia)



R₁ is OCOR₃, wherein R₃ is methyl and R₂ is hydrogen; and

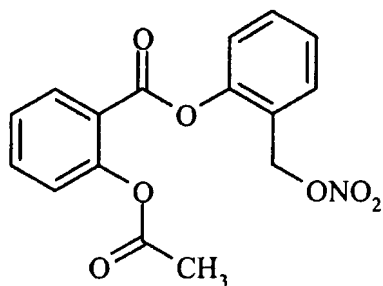
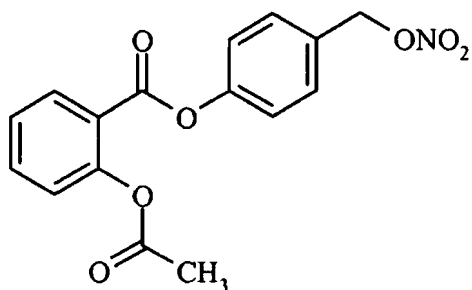
X₁ is the formula



wherein n3 is 0.

Further, as 3-(nitroxymethyl)phenyl ester of aspirin is an isomer of the other two nitroxymethyl phenyl esters of aspirin of claim 5, illustrated below, Applicants respectfully

maintain that an election all three compounds should be allowed in response to the Election of Species Requirement.



In view of the Applicant's above elections, the Applicants respectfully submit that the Restriction Requirement and the Election of Species Requirement have been satisfied. The Applicants maintain that claims 1, 2, and 4-6 read on the elected species. Accordingly, the Applicants respectfully request examination of the claims on the merits.

In the event this paper is not considered to be timely filed, Applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300, referring to Attorney Docket No. 026220-00039. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 01-2300, referencing Attorney Docket No. 026220-00039.

Respectfully submitted,



Amy E.L. Schoenhard
Registration Number 46,512

Customer Number 004372
ARENT FOX LLP
1050 Connecticut Avenue, NW, Suite 400
Washington, DC 20036-5339
Telephone: 202-857-6000
Fax: 202-857-6395